



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,863	04/20/2001	Joao Augusto Mattar Neto	70317.1200	4421

7590

04/02/2003

Ronald Abramson
Peter A. Sullivan
Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, NY 10004-1482

EXAMINER

WEISS JR, JOSEPH FRANCIS

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/838,863

Applicant(s)
Neto et al.

Examiner
Joseph Weiss

Art Unit
3761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 27, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

Art Unit: 3761

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Brazil on 23 Oct 1998. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

Specification

2. A substitute specification is required pursuant to 37 CFR 1.125(a) because the paragraph & claim carriage of the first line indents half way across the page, i.e. improper format.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

Claim Objections

3. Claims 1-20 objected to because of the following informalities: All claims start off with an all caps quotation marked phrase that appears to be the title of the invention, while the language

Art Unit: 3761

content may serve as a preamble, the format is improper, note all claims should start off with an article for proper grammar purposes. Appropriate correction is required.

4. Claims 4 & 12-14 are objected to under 37 CFR 1.75© as being in improper form because a multiple dependent claim can only depend in the alternative to the other preceding claims. See MPEP § 608.01(n). Accordingly, claims 4 & 12-14 have not been further treated on the merits.

Claim 19, line 4, "an" should be used instead of "a" before "anatomic."

Claim 20, line 3 "that that" is redundant.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 1, line 3 what is "it"?

In regards to claim 1 line 4 "chamber (3)" is inconsistent with line 7 "chamber (2)".

7. Claim 1 recites the limitation "the action of a spring" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3761

8. Claim 1 recites the limitation "the angle" in line 11. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 1 recites the limitation "the o rings" in 12. There is insufficient antecedent basis for this limitation in the claim.

In regards to claim 1, line 13 what is "its"?

10. Claim 1 recites the limitation "the sealing rings" in 15. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 1 recites the limitation "the secretion" in line 17. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 1 recites the limitation "the vacuum application moment" in line 18. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 1 recites the limitation "the interconnection component" in line 23. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 1 recites the limitation "the plastic sheating [sic]" in line 24. There is insufficient antecedent basis for this limitation in the claim.

Does the interconnecting component claimed comprise three regions or not? Use of the adjective "basically" casts this in doubt, hence rendering the language indefinite.

Does the anterior region comprise three ring ribs or not? Use of the adjective "preferably" casts this in doubt, hence rendering the language indefinite.

Art Unit: 3761

In regards to claim 1, line 21, applicant sets forth a "rim connection (14)," then in line 30 this is set forth as the internal wall external connection (14)? Which is it, please correct.

15. Claim 1 recites the limitation "the internal wall external connection" in line 30. There is insufficient antecedent basis for this limitation in the claim.

In regards to lines 22 & 32 what is a "tightering" element? Do you mean "tightening" element?

In regards to claim 1, line 34 what is "its"?

In regards to lines 24, 37, 40, 48 and 53-54 "sheating" should be --sheeting--

16. Claim 1 recites the limitation "the positioning place" in line 38 . There is insufficient antecedent basis for this limitation in the claim.

17. Claim 1 recites the limitation "the rim of a probe" in line 39. There is insufficient antecedent basis for this limitation in the claim.

In regards to claim 1, line 40 what is "its"?

18. Claim 1 recites the limitation "the ring set" in line 47-48. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 1 recites the limitation "the other trunk" in 51. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 1 recites the limitation "the other retention ring" in line 53. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3761

21. Claim 2 recites the limitation "the vacuum" in line 6. There is insufficient antecedent basis for this limitation in the claim.

In regards to claim 6, line 5 what is "its"?

In regards to claim 6, What is a limiting and making way?

22. Claim 7 recites the limitation "the external wall" in line 6. There is insufficient antecedent basis for this limitation in the claim.

23. Claim 7 recites the limitation "the limiting and marking means" in line 8. There is insufficient antecedent basis for this limitation in the claim.

24. Claim 8 recites the limitation "the terminal wall" in lines 5-6 . There is insufficient antecedent basis for this limitation in the claim.

Use of "the coupling" in the last two lines of claim 8 renders the claim indefinite since this term is also used as a previous element, yet here it is used as a verb.

In regards to claim 10, the tighteninging element 43, was set forth as tighteninging element 16, is this a second tighteninging element. Also this appears to be an attempt to set forth a "tightening" element.

25. Claim 10 recites the limitation "the chamber (50)" in line 8. There is insufficient antecedent basis for this limitation in the claim. Note use of chamber language in the base claim, is this a second chamber? Or is it referring to the same chamber but just inconsistent reference number?

Art Unit: 3761

26. Claim 10 recites the limitation "the sphere shaped element" in line 8. There is insufficient antecedent basis for this limitation in the claim.

In regards to claim 11, line 5 what is "it" and "its"?

27. Claim 11 recites the limitation "the function" in line 3. There is insufficient antecedent basis for this limitation in the claim.

28. Claim 11 recites the limitation "the internal environment" in line 4. There is insufficient antecedent basis for this limitation in the claim.

29. Claim 15 recites the limitation "the ventilating equipment" in line 5. There is insufficient antecedent basis for this limitation in the claim.

In regards to the language "incorporates sealing rings o-rings type (60)" is awkward, does not make sense and renders the claim indefinite, please re-phrase.

30. Claim 18 recites the limitation "the air flow entrance angle" in line 5. There is insufficient antecedent basis for this limitation in the claim.

31. Claim 19 recites the limitation "the system" in line 6. There is insufficient antecedent basis for this limitation in the claim.

32. Claim 19 recites the limitation "the latter" in line 6. There is insufficient antecedent basis for this limitation in the claim.

33. Claim 19 recites the limitation "the secretion accumulation" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3761

34. Claim 20 recites the limitation "the external part of the probe" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

This list of issues of definiteness, while thorough, is not exhaustive, and applicant should carefully review all the claim language to resolve all issues of definiteness.

Claim Rejections - 35 USC § 102

35. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

36. Claims 1-20 are rejected under 35 U.S.C. 102(d) as being barred by applicant's reference PI 9804529-6.

Applicant's Brazilian reference was filed more than one year prior to the US filing date and published before the US filing date.

Conclusion

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5957898, 5730123, 5664564, 5582161, 5579762, 5336192, 5309902, 5176415, 5139018, 4872579, 4846167, 4638539

Art Unit: 3761

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph F. Weiss, Jr., whose telephone number is (703) 305-0323. The Examiner can normally be reached from Monday-Friday from 8:30 AM to 4:30 PM.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Weilun Lo, can be reached at telephone number (703) 308-2702. The official fax number for this group is (703) 305-3590 or x3591.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858.



JF Weiss

March 27, 2003



WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700